

Message Text

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SECDEF WASHDC
INFO AMEMBASSY BONN
USDOCOCENT BRUNSSUM NL
AMEMBASSY BRUSSELS
CINCUSAREUR HEIDELBERG GER
AMEMBASSY LONDON
CINCUSAFE RAMSTEIN AB GER
USNMR SHAPE BE
USCINCEUR VAIHINGEN GER
32ND TFS CAMP NEW AMSTERDAM NL

C O N F I D E N T I A L SECTION 01 OF 02 USNATO 07656

32ND TFS FOR NL/JA, USAREUR FOR AEAJA/IA, USAFE FOR JACI

E.O. 11652: GDS
TAGS: MARR NATO
SUBJECT: TAX EXEMPTION OF MILITARY HEADQUARTERS AND
PERSONNEL: THE DUTCH AND AFCENT

REF: THE HAGUE 4324, DTG 040435Z AUG 78

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SUMMARY: MSG PROVIDES INFO ADDRESSEE INPUT TO STATE/DE-
FENSE FOR THEIR CONSIDERATION OF REFERENCED MSG WHICH
URGES THEIR ATTENTION AND WASHINGTON GUIDANCE AS TO WHAT
ACTION AFCENT SHOULD TAKE REGARDING THE DUTCH IMPOSITION
OF TAXES WHICH (IN THE VIEW OF THE US, UK AND CANADA)
VIOLATE THE SPIRIT AND INTENTION OF THE INTERNATIONAL
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AGREEMENTS GOVERNING THE IMPOSITION OF SUCH TAXES. SINCE
THE POTENTIAL FOR EROSION OF AGREEMENTS IN NATO OUTWEIGHS
THE RISK OF POSSIBLE CONFRONTATION WITH DUTCH TAX COLLEC-
TORS, WE RECOMMEND NON-PAYMENT PENDING NATO COUNCIL DECI-
SION. IT APPEARS USEFUL, HOWEVER, FOR THE US GOVERNMENT
TO SO INFORM THE GON IN ORDER TO AVOID CONFRONTATION BE-
TWEEN US PERSONNEL AND LOCAL TAX COLLECTORS. END SUMMARY.

1. REFTEL SUGGESTS THAT DEPT AND OSD CONSIDER WHETHER ANY STEPS COULD BE TAKEN SOONER THAN NOVEMBER MEETING (SUBJECT TO VIEWS OF INFO ADDRESSEES) TO OBTAIN A DECISION FROM THE "NATO HIERARCHY" THAT THE TAXES IN QUESTION ARE NOT TO BE COLLECTED FROM FOREIGN MILITARY PERSONNEL ASSIGNED TO THE NETHERLANDS IN CONNECTION WITH THEIR NATO DUTIES. OUR VIEWS FOLLOW.

2. THE AD HOC COMMITTEE ON TAX EXEMPTION OF MILITARY HQ AND PERSONNEL IS A NAC COMMITTEE MANDATED TO TRY TO CLARIFY THE AGREEMENTS WHICH GOVERN THE HOST NATION'S/SENDING NATION'S UNDERSTANDING AS TO THE APPROPRIATENESS OF SUCH TAX IMPOSITION. CONSIDERING THE NATO PROCEDURAL MECHANICS, WE CANNOT CONCEIVE OF ANY PRACTICAL, EXTRAORDINARY ACTION WHICH WOULD INDUCE THE NAC TO MAKE A DECISION REGARDING THE SUBJECT TAXES IN THE ABSENCE OF A REPORT/RECOMMENDATION ORIGINATING WITH THE AD HOC COMMITTEE FORMED FOR THIS PURPOSE.

3. IN THE AD HOC GROUP, SELF-INTEREST HAS SPLIT THE MEMBERS INTO AN OFF-SHORE CAMP (US, UK AND CANADA) AND THOSE HOST NATIONS WITH A FINANCIAL STAKE (NETHERLANDS, GERMANY AND BELGIUM). THE OTHER HOST NATION REPRESENTATIVES ATTENDING THE MEETINGS (HAVING NO FINANCIAL STAKE) HAVE CONTENTED THEMSELVES WITH LEGALISTIC CONSIDERATION OR CONFIDENTIAL

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VISCERAL SUPPORT (MOSTLY BY THE FRENCH REP) OF THE SOVEREIGN RIGHTS OF HOST NATIONS.

4. THE PROLONGED DISCUSSIONS TO DETERMINE THE PURPOSE AND INTENTION OF THE AGREEMENTS LEAD ONLY TO INTERPRETATIONS WHICH REFLECT NOT SO MUCH THE LAW AS FINANCIAL SELF-INTEREST. AS THE HAGUE HAS STATED, THE DUTCH REMAIN CONVINCED THAT THE LEGAL DELIBERATIONS HAVE CONFIRMED THEIR RIGHT TO LEVY THE TAXES IN QUESTION.

5. THE MISSION'S VIEW IS THAT THE DUTCH HAVE INITIATED AND IMPOSED TAXES WITHOUT FIRST HAVING ENTERED INTO DISCUSSIONS AND NEGOTIATIONS WITH THE AFFECTED HQ CONCERNING SUCH INTENTION-ABROGATING THE INHERENT SPIRIT AND PURPOSE OF THE AGREEMENTS WHICH WERE CONCEIVED AS INSTRUMENTS WHOSE UNDERLYING PHILOSOPHY WAS THAT NATO MILITARY HQ SHOULD BE EXEMPT FROM DUTIES AND TAXES AFFECTING EXPENDITURES IN THE INTEREST OF COMMON DEFENSE. FURTHER, WE ARE OF THE OPINION THAT THERE IS SUBSTANTIVE PROGRESS TOWARD FINALIZING A REPORT TO THE NAC WHICH WILL PERMIT THAT BODY TO MAKE A DECISION REGARDING THE MERITS OF THE DUTCH TAX IMPOSITION. THE OFF-SHORE MEMBERS HAVE BEEN REASONABLY SUCCESSFUL IN

HAVING THEIR INTERPRETATIONS OF THE AGREEMENTS REFLECTED
IN THE REPORT TO COUNCIL.

6. WE BELIEVE IT WOULD BE TACTICALLY WRONG TO FOLD AT THIS
JUNCTURE. IF WE AGREE TO PAY THESE TAXES-EVEN UNDER PRO-
TEST-WE WILL HAVE SET THE STAGE FOR SERIOUS EROSION OF
THE PRESENT AGREEMENTS. SHOULD THE AD HOC MEMBERS, IN THE
FINAL ANALYSIS, CONFINE THEMSELVES TO SUBMITTING "A LEGAL
REVIEW REPORT" TO COUNCIL MAKING NO JUDGMENTS ON RECOM-
MENDATIONS, THERE IS A GOOD POSSIBILITY THAT THE COUNCIL
MIGHT BE PERSUADED TO CHOOSE THE LARGER ARENA OF COMMON

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DEFENSE INTEREST AND DECIDE IN FAVOR OF THE OFF-SHORE
NATIONS.

7. WE RECOGNIZE THE CONCERN EXPRESSED BY EMBASSY THE HAGUE
REGARDING THE SITUATION POSSIBLY DETERIORATING INTO AN
UNWANTED CONFRONTATION BETWEEN US PERSONNEL AND LOCAL TAX
COLLECTORS. WE DO NOT BELIEVE THAT PAYMENT OF THE TAXES
AT THIS TIME, WHETHER OR NOT "UNDER PROTEST," WOULD BE
USEFUL TO OUR EFFORTS HERE IN NATO. WE BELIEVE THAT THE
DEPARTMENT SHOULD GIVE CONSIDERATION TO THE POSSIBILITY OF

A US DEMARCHE WITH GON INDICATING THAT US PERSONNEL HAD BEEN ADVISED NOT TO PAY THE CONTESTED TAXES UNTIL THE NATO COUNCIL HAD DETERMINED THAT SUCH TAXES WERE APPLICABLE IRRESPECTIVE OF STATUS OF FORCES AND OTHER NATO AGREEMENTS. ARMED WITH SUCH AN ACTION, US PERSONNEL SHOULD THEN BE IN CONFIDENTIAL

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A BETTER POSITION TO DEAL WITH LOCAL COMMUNITY AUTHORITIES.

8. FINALLY, WE BELIEVE (AS DO THE UK AND CANADA) THAT THE TAXES IN QUESTION CLEARLY DO NOT CONFORM WITH THE SPIRIT AND INTENTION OF THE GOVERNING AGREEMENTS AND SHOULD THEREFORE BE VIGOROUSLY RESISTED TO THE EXTENT OF NON-PAYMENT. GLITMAN

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